

P-413, 421, 430, 407, 405, 426/CP-89-187VARYING RULE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Petition of Certain
Subscribers of the Waverly Exchange for
Extended Area Service to the Metropolitan
Calling Area

ISSUE DATE: June 28, 1989

DOCKET NO. P-413, 421, 430, 407, 405,
426/CP-89-187

ORDER VARYING RULE

PROCEDURAL HISTORY

On March 28, 1989, certain subscribers in the Waverly exchange of Lakedale Telephone Company (Lakedale) petitioned the Minnesota Public Utilities Commission (the Commission) under Minn. Rules, part 7815.0700, for Extended Area Service (EAS) between Waverly and the Minneapolis/St. Paul Metropolitan calling area (Metro Area). The Metro Area is served by Northwestern Bell Telephone Company, Contel of Minnesota, Inc. (Contel), Central Telephone Company (Centel), United Telephone Company of Minnesota (United), and Scott-Rice Telephone Company (Scott-Rice).

In a letter dated April 4, 1989, the Minnesota Department of Public Service (DPS) informed NWB, Contel, Centel, United, Scott-Rice, and Lakedale that certain subscribers in Lakedale's Waverly exchange had filed an EAS petition. The letter outlined the companies' responsibilities to provide information to the DPS pursuant to Minn. Rules, Chapter 7815. Traffic studies were due to be submitted to the DPS before May 12, 1989 and cost studies by May 17, 1989.

On April 4, 1989, Lakedale filed a request for a variance of Minn. Rules, parts 7815.0800 - 7815.1000 to defer this petition in the same manner as was done in In the Matter of the Petition of Certain Subscribers in the Montrose Exchange for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area, Docket No. P-421, 413/CP-88-856. On May 11, 1989 Lakedale filed a second request asking that this petition be suspended until a final decision is reached in the consolidated Metro EAS case. In the Matter of the Petitions of Certain Subscribers in the Exchanges of Zimmerman, Prescott, Waconia, Belle Plaine, North Branch, Lindstrom, New Prague, Cambridge, Hudson, Le Sueur, Cannon Falls, Delano, Northfield, Buffalo, Houlton, and Watertown for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area, Docket No. P-421, P-405, P-407, P-430, P-426, P-520, P-427/CI-87-76.

NWB filed a request for variance on April 12, 1989 asking that the Commission vary the EAS rules by postponing the processing of this petition until after the consolidated Metro EAS hearing has been resolved.

On May 9, 1989, United requested that the EAS rules be varied to allow community of interest information to be filed and evaluated prior to the companies being required to provide cost information and develop rates. In the event that the Commission did not approve United's variance request, United asked for 60 days from the Commission's Order to file rates and cost information. On that same date, United submitted traffic studies stating that the studies showed insignificant traffic volumes.

On May 31, 1989, the Department filed a letter agreeing with United on the manner in which the EAS rule should be varied with this petition and recommending a time frame.

The Commission met on June 6, 1989 to consider this matter.

BACKGROUND

Extended Area Service is an area in which Commission policy and the technical and social conditions which determine Commission policy are evolving.

Between March and October 1987, the Commission consolidated sixteen petitions for EAS to the Metropolitan Area into a single proceeding. The purpose of the consolidation was to allow comprehensive examination of the common policy issues raised by those petitions.

Hearings on the matter are being conducted in three phases. Phase I examined the history, current composition and future needs of the Metropolitan Area. During Phase II contested case hearings were conducted in the petitioning exchanges. The Commission's Order on Phases I and II was issued June 20, 1989. Phase III will focus on the cost of service and appropriate rates for each exchange approved by the Commission for further study.

FINDINGS AND CONCLUSIONS

The Commission must decide whether to vary the time requirements of Minn. Rules, parts 7815.0800 - 7815.1000 for processing the Waverly EAS petition.

The Commission may grant a variance to any of its rules upon finding that the following conditions apply:

1. Enforcement of the rules would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7830.4400.

The Commission finds that requiring traffic studies, community of interest information, cost information, and proposed rates to be submitted in compliance with Minn. Rules, parts 7815.0800 to 7815.10000 imposes an excessive burden on the companies affected by this EAS petition. Those rules require the companies to submit traffic studies within 45 days of service of the petition, cost studies and proposed rates five days later, and community of interest information ten days after that. These time lines are not realistic in a case like this which involves numerous separate routes to the Metro area. Assembling, processing, and submitting the required information will require more time than that allowed in the rules.

The Commission also finds that it is reasonable to review traffic and community of interest information before directing the companies to conduct cost studies and develop proposed rates. This will allow the companies and their ratepayers to avoid the cost of developing rates for proposed EAS routes which may be rejected on the basis of traffic studies and community of interest considerations alone. The Commission has authorized this procedure in similar cases. See, In the Matter of the Petitions of the Iron Trail United Communities for Extended Area Service Between Communities on the Iron Range of Northern Minnesota, Docket No. P-407, P-421/CP-87-747; In the Matter of a Petition for Extended Area Service from Chatfield and Stewartville to Rochester and Surrounding Communities, Docket No. P-421, P-559, P-555, P-407, P-430/CP-88-629.

The Commission concludes that it will vary the time requirements of the EAS rules. Enforcing the rules would impose an excessive burden on the companies and their ratepayers. The excessive burden would be the expense of conducting numerous cost studies which might have to be repeated once the proposed routes that merit further investigation are identified.

Granting the variance will not adversely affect the public interest. In fact, narrowing the scope of the cost studies furthers the public interest by conserving ratepayers' funds and Commission resources through a more orderly and efficient proceeding.

Finally granting the variance will not conflict with any standards imposed by law.

The Commission will vary the rules, substituting the following timetables for the ones in the rules. Traffic studies and community of interest information specified in Minn. Rules, part 7815.1000, items D, E, F, G, and K shall be filed with the Commission, the DPS and the petition sponsors no later than September 18, 1989 (90 days of June 20, 1989 issue date of the Phase I and II Metro EAS Order).

The DPS will file a report and recommendation within 30 days thereafter. Parties will then have 20 days to respond to the DPS report. The Commission will then establish a schedule for filing cost studies and proposed rates for proposed EAS routes meriting further investigation on the basis of the information received.

The Commission finds that requiring the petitioners, the companies, and the DPS to proceed with the Waverly EAS petition on this schedule will avoid possible duplication of information that has been developed for the Metro EAS case. This duplication of effort and information would impose an unnecessary and excessive burden on those involved in this matter.

Further, deferring consideration of the Waverly petition for a short time will not adversely affect the public interest. Rather, the public interest will be served by a short delay in considering this petition because the Commission's determinations on the policy issues raised in the Metro EAS case could provide helpful background information to the Commission in its evaluation of the issues raised here. A short delay in addressing this matter will not prejudice the parties to this case.

The Commission will deny NWB's and Lakedale's requests to postpone beginning the processing of this EAS petition until the completion of the Metro EAS case. Waiting until the end of Phase III of that case unduly prolongs this matter and serves no reasonable purpose.

Finally, varying Minn. Rules, parts 7815.0800 - 7815.1000 does not conflict with standards imposed by law.

The Commission concludes that the requirements of Minn. Rules, part 7830.4400 have been met. The Commission will vary Minn. Rules, parts 7815.0800, et seq. to implement the above schedule.

Finally, the Commission will require that the traffic studies provide the number of calls placed to and from the wire centers in the Metro area. Calling distribution (the number of customers placing 0 calls, 1 call, 2 calls, etc.) shall also be included in the traffic studies. Distribution need only be provided for the three wire centers having the highest traffic.

ORDER

1. The requirements of Minn. Rules, parts 7815.0800 to 7815.1000 are varied to the extent necessary to accommodate the following timetable:
 - (a) No later than September 18, 1989, the telephone companies affected by the Waverly EAS petition shall file with the Commission, the DPS, and the petition sponsor traffic studies as described above and the community of interest information specified in Minn. Rules, part 7815.1000, items D, E, F, G, and K for the Waverly exchange.
 - (b) Within 30 days of the filing of the above information, the DPS shall file a report and recommendation on the EAS routes proposed in this case.
 - (c) Within 20 days of the filing of the DPS report, the parties shall file their comments with the Commission, the DPS, and all parties to the proceeding.
2. The requests of Lakedale and NWB to delay the beginning of the processing of this EAS petition until the completion of the Metro EAS case are denied.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)